

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1211/Ahd/2024
(Assessment Year: 2018-19)

Deputy Commissioner of Income-Tax Central Circle 1(1), Ahmedabad	Vs.	Nilesh Prakash Sanghvi Shop No.9, Shyamla Bhawan, 141, Khetwadi Main Road, Mumbai 400004, Maharashtra
[PAN No. ALNPS1683D]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Vijay Mehta, A.R.
Respondent by:	Shri Rignesh Das, Sr. DR

Date of Hearing	04.12.2024
Date of Pronouncement	16.12.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Revenue against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short "Ld. CIT(A)"), Ahmedabad vide order dated 10.04.2024 passed for A.Y. 2018-19.

2. The department has raised the following grounds of appeal:-

- "1) *"In the facts and on the circumstances of the case and in law, the ld.CIT(A) has erred in deleting the addition of Rs.1,70,18,333/-made by A.O. u/s.69C of the I.T.Act for expenditure incurred on construction without considering the fact that no explanation had been offered by assessee about the source of expenditure incurred during the year under consideration."*

3. The brief facts of the case are that the assessee is a sole proprietor of Tulsi Realty and is engaged in the business of construction. This is the first year of business of construction carried out by the assessee. In the return of income, the assessee declared total income of Rs.97,53,540/-. During the course of assessment, the AO observed that the assessee had incurred certain expenditure amounting to Rs.1,70,18,333/-. The AO noted that vide reply dated 29.01.2021, the details of expenditure had been furnished by the assessee. However, the AO was of the view that various details like source of expenditure, documentary evidences, such as bills, vouchers, name of the party to whom payment was made and transactions details have not been furnished. Accordingly, the Ld. AO disallowed a sum of Rs.1,70,18,333/- and added the same to the total income of the assessee.

4. In appeal, Ld. CIT(A) deleted the additions by observing that the source of expenditure is duly reflected in the books of accounts. The assessee had furnished details of expenditure, such as copies of invoices and ledger account before the AO. The AO had failed to carry out necessary enquiries to ascertain the genuineness of expenses, there is no allegation in the assessment order that the expenditure is found to be bogus, the said expenditure has been incurred through regular banking channel and not in cash and, therefore, the addition was liable to be deleted.

5. The Department is in appeal before us against the order of the Ld. CIT(A), allowing the appeal of the assessee.

6. On going through the documents of both the parties and on perusal of the case records, it is observed that in the remand proceedings, the assessee had

submitted various details, such as, ledger accounts, bills, vouchers and other relevant documents before the AO. However, in the remand report, the only observation made by the AO is as under:

"Since the assessment proceeding is completed, therefore the genuineness of bills, vouchers, etc. and identity, creditworthiness of the third parties to whom payment was made by the assessee cannot be verified on this stage through third party verification."

Further, while allowing relief to the assessee, the Ld. CIT(A) has specifically noted that by submitting the aforesaid details, the assessee has discharged the primary onus cast on him and further, the source of expenditure has also been duly reflected in the books of accounts. It would be useful to reproduce the relevant extracts of the order of the Ld. CIT(A) for ready reference:

"7.5 The AO has invoked provisions of section 69C of the Act. By submitting details, the appellant has discharged the primary onus cast upon him. The source of the said expenditure is duly reflected in the books of account and the appellant has submitted details such as invoice copies, ledger accounts, etc. before the AO. The AO has done necessary enquiries related to the addition made in respect of Investment in immovable property and found the same to correct. The AO could have in similar manner done enquiries in relation to details submitted for disallowance of expenditure also during remand proceedings. It is not the case of the AO that the said expenditure incurred by the appellant is unaccounted of found to be bogus. The details submitted clearly indicate that the said expenditure is incurred through regular banking channels and as such, it cannot be held that such expenditure is out of unexplained source warranting addition u/s 69C of the Act."

On going through the observations made by the Ld. CIT(A), we are of the considered view that the Ld. CIT(A) has taken reasonable approach, by allowing relief to the assessee, after taking into consideration the various details filed by

the assessee and also noting lack of enquiry on the part of the AO while making the disallowance. Accordingly, we find no infirmity in the order of the Ld. CIT(A) so as to call for interference.

7. In the result, the appeal of the Revenue is dismissed.

This Order pronounced in Open Court on 16/12/2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 16/12/2024

S K Sinha, Sr. PS

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आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad